

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ROB BINTER JR.,

Plaintiff,

v.

UNITED HEALTHCARE SERVICES,
INC.,

Defendant.

Case No. 23-cv-1063-LA

Judge Lynn Adelman

CLASS ACTION

JOINT RULE 26 REPORT AND DISCOVERY PLAN

The Federal Rule of Civil Procedure 16(b) scheduling conference will be held on November 20, 2023 at 9:30 a.m. Plaintiff Rob Binter Jr. (“Plaintiff”) and Defendant United HealthCare Services, Inc. (“Defendant”) submit the following Rule 26 report pursuant to Federal Rule of Civil Procedure 26 and Civil Local Rule 16:

A. The nature of the case: This is a putative class action in which Plaintiff alleges Defendant violated the Telephone Consumer Protection Act by making prerecorded voice calls to Plaintiff and others without consent.

B. Any contemplated motions: Plaintiff intends to move for class certification at the appropriate time and may move for summary judgment. Defendant will oppose class certification and will likely move for summary judgment.

C. The parties' discovery plan, including the amount of discovery each party contemplates, the approximate time for completion of discovery, and any disputes regarding discovery:

1. Completion of Discovery and Phasing of Discovery

- a. The parties propose that all discovery on the subjects identified below, and any subjects that the parties later identify, be completed by February 28, 2025.

2. Subjects of Discovery:

- a. Plaintiff: Plaintiff anticipates serving an initial round of written discovery directed primarily towards Defendant's defenses to Plaintiff's claims and identifying all parties involved in the making of calls by or on behalf of Defendant, including information relating to the content, creation, and instructions to make the calls, as well as information sufficient to identify the recipients of those calls. This written discovery will seek information maintained by Defendant or by any agent of Defendant. Plaintiff will also seek related information from any third-party marketers or others involved in the making of the calls. Plaintiff then intends to depose Defendant relating to its defenses, prerecorded voice call

practices, and the calls at issue, and serve additional written discovery as necessary. Finally, Plaintiff intend to obtain written discovery regarding, and the depositions of, any experts retained by Defendant in connection with Plaintiff and the Class's claims.

- b. Defendant: Defendant anticipates serving written discovery on Plaintiff and third parties concerning Plaintiff's allegations in the Complaint. Defendant further anticipates deposing Plaintiff and other individuals regarding the telephone calls at issue and consent provided thereto. Defendant also intends to obtain written discovery regarding, and the depositions of, any experts retained by Plaintiff in connection with Plaintiff's and the putative class's claims.

3. Disclosure, Discovery, or Preservation of Electronically Stored

Information: The parties anticipate the need for electronic discovery and will confer to try to reach agreement regarding an ESI Protocol. If the parties are unable to reach agreement, the parties shall submit a joint motion for ESI Protocol to highlight any unresolved issues.

4. Claims of Privilege or of Protection as Trial Preparation

Materials: The parties do not anticipate any issues regarding claims of privilege or of work product protection. The parties have not yet reached agreement on a procedure to assert claims of privilege or work product after production but will continue to discuss this issue as discovery proceeds.

5. Limitations of Discovery: The parties do not believe, at this time, that any changes should be made in the limitations on discovery imposed under the Federal Rules or Local Rules. The parties reserve the right to request changes to discovery limitations pursuant to Federal Rule of Civil Procedure 26(b)(1).

6. Other Rule 16(b), 16(c), or 26(c) Orders: There are no other orders that the Court should currently issue under Rules 16(b), 16(c) or 26(c).

D. Whether the parties anticipate the disclosure or discovery of electronically stored information: The parties anticipate discovery of electronically stored information and will confer to try to reach agreement regarding an ESI Protocol. If the parties are unable to reach agreement, the parties shall submit a joint motion for ESI Protocol to highlight any

unresolved issues. The parties reserve the right to request changes to discovery limitations pursuant to Federal Rule of Civil Procedure 26(b)(1).

E. Whether the parties have reached an agreement for asserting post-production claims of privilege or of protection as trial-preparation material, and whether the parties request the judge to enter an order including the agreement: The parties do not anticipate any issues regarding claims of privilege or of work product protection. The parties have not yet reached agreement on a procedure to assert claims of privilege or work product after production but will continue to discuss this issue as discovery proceeds.

F. Whether settlement discussions have occurred: The parties will engage in future good faith discussions at the appropriate time. Plaintiff anticipates requiring call logs for the class in order to appropriately evaluate the action prior to meaningful settlement discussions.

G. The basis for the Court's subject matter jurisdiction: This Court has federal question subject matter jurisdiction over this action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. §227.

H. Whether this case is exempt from initial disclosures and discovery

conference requirements: This case is not exempt from initial disclosures and discovery conference.

I. Such other matters as may affect further scheduling of the case for

final disposition: The parties agree to electronic service of all documents not required to be filed with the court electronically, provided they are sent to all attorneys of record in the lawsuit.

J. Proposed Deadlines: The parties propose the following schedule for the Court's consideration.

EVENT	PROPOSED DEADLINE
Initial Disclosures	November 16, 2023
Joinder of any additional parties and filing of motion to amend the complaint	December 29, 2023
Fact discovery shall be completed by	July 19, 2024
Plaintiff's Motion for Class Certification with any Expert Reports in Support Thereof	July 26, 2024
Defendant's Response/Opposition to Plaintiff's Motion for Class Certification filed with any Rebuttal Expert Reports in Support Thereof	September 13, 2024
Plaintiff's Reply in Further Support of Class Certification filed with any Expert Reports in Support Thereof	October 4, 2024

EVENT	PROPOSED DEADLINE
The parties shall disclose initial experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) by	January 10, 2025
The parties shall disclose rebuttal experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) by	February 7, 2025
Expert discovery shall be completed by	February 28, 2025
Dispositive motions, including summary judgment, shall be filed by	March 21, 2025
Joint pretrial stipulation and pretrial motions	June 13, 2025

DATED this 13th day of November, 2023.

Respectfully submitted,

By: /s/ Avi R. Kaufman

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*Attorneys for Defendant United
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing pleading via the Court's electronic filing system, pursuant to the Electronic Filing Procedures, on the attorneys of record.

This the 13th day of November, 2023.

/s/ Avi R. Kaufman

Avi R. Kaufman